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3 **UNITED STATES DISTRICT COURT**
FOR THE EASTERN DISTRICT OF MICHIGAN

4) **Case No.:**
5 **LISA WALKER,**)
6)
7 Plaintiff,)
8 v.)
9 **SYNCHRONY BANK,**) **JURY TRIAL DEMANDED**
10 Defendant.)
11)

12 **COMPLAINT**

13 LISA WALKER (“Plaintiff”), by and through her attorneys, KIMMEL &
14 SILVERMAN, P.C., alleges the following against SYNCHRONY BANK
15 (“DEFENDANT”):

16
17 **INTRODUCTION**

18 1. Plaintiff’s Complaint is based on the Telephone Consumer Protection
19 Act, 47 U.S.C. §227.

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21 **JURISDICTION AND VENUE**

22 2. Jurisdiction of this Court arises under 28 U.S.C. § 1331. See Mims v.
23 Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).
24

1 day.

2 14. Defendant used an automatic telephone dialing system, automated
3 message and/or prerecorded voice when contacting Plaintiff.
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5 15. Plaintiff knew that Defendant was using an automated telephone
6 dialing system because the calls would begin with a recording or pre-recorded
7 voice prior to speaking to one of Defendant's representatives.
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9 16. Defendant's telephone calls were not made for "emergency purposes."

10 17. Desiring to stop the repeated telephone calls, Plaintiff spoke with
11 Defendant's agents to advise them that she no longer wanted to be contacted on her
12 cellular telephone and to stop calling her in or around May 2015.
13

14 18. Once Defendant was aware that its calls were unwanted and to stop,
15 there was no lawful purpose to continue making further calls, nor was there any
16 good faith reason to place calls.
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18 19. However, Defendant refused to update its records to restrict telephone
19 calls to Plaintiff's cellular telephone despite Plaintiff's repeated instruction to stop
20 calling.
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22 20. Undaunted by Plaintiff's demands to cease calling, Defendant
23 continued to call Plaintiff on her cellular telephone an excessive number of times
24 per day through in or about 2015 or 2016.
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27. Defendant repeatedly placed non-emergency calls to Plaintiff's cellular telephone.

28. Under § 227(b)(3)(A) of the TCPA, a person or entity may bring a private cause of action in an appropriate court based on a violation of the TCPA or the regulations prescribed under the TCPA to enjoin such violation.

29. Under § 227(b)(3)(B) of the TCPA, a person or entity may bring a private cause of action in an appropriate court “to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation whichever is greater.”

30. Based upon the conduct of Defendant, Plaintiff avers that the enhancement of damages provided for by the TCPA allowing for Plaintiff to recover up to \$1,500 per call/violation be applied to calls placed.

31. Defendant's conduct violated § 227(b)(1)(A)(iii) of the TCPA by placing repeated calls using an automatic telephone dialing system to Plaintiff's cellular telephone.

32. Defendant's calls to Plaintiff's cellular telephone after she revoked consent were not made with Plaintiff's prior express consent.

33. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

1 34. The acts and/or omissions of Defendant were done unfairly,
2 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
3 lawful right, legal defense, legal justification or legal excuse.
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5 35. As a result of the above violations of the TCPA, Plaintiff has suffered
6 the losses and damages as set forth above entitling Plaintiff to an award of
7 statutory, actual and trebles damages.
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10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, LISA WALKER, respectfully prays for a judgment as
12 follows:
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- 14 a. All actual damages suffered pursuant to 47 U.S.C. §
15 227(b)(3)(A);
16 b. Statutory damages of \$500.00 per violative telephone call
17 pursuant to 47 U.S.C. § 227(b)(3)(B);
18 c. Treble damages of \$1,500.00 per violative telephone call
19 pursuant to 47 U.S.C. §227(b)(3);
20 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
21 e. Any other relief deemed appropriate by this Honorable Court.
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, LISA WALKER, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

Dated: May 5, 2017

By: /s/ Amy L. Bennecoff Ginsburg

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